

# **EXHIBIT A**

12/20/17  
Served  
L. Anthony

DAVID J. MERRILL, P.C.  
10161 PARK RUN DRIVE, SUITE 150  
LAS VEGAS, NEVADA 89145  
(702) 566-1935

**SUMM**  
David J. Merrill  
Nevada Bar No. 6060  
David J. Merrill, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 566-1935  
Facsimile: (702) 993-8841  
E-mail: david@djmerrillpc.com  
Attorney for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**LAS VEGAS REGIONAL SURGERY**  
**CENTER, L.P., a Nevada Limited**  
**Partnership,**

**Plaintiff,**

**vs.**

**BLUE CROSS OF COLORADO, a**  
**business organization, form unknown,**  
**and DOES 1-10,**

**Defendants.**

Case No.: A-17-765037-C  
Dept. No. 32

**SUMMONS - CIVIL**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST**  
**YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN**  
**20 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff  
against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this  
Summons is served on you, exclusive of the day of service, you must do  
the following:
  - (a) File with the Clerk of this Court, whose address is shown below,  
a formal written response to the Complaint in accordance with  
the rules of the Court, with the appropriate filing fee.

DAVID J. MERRILL, P.C.  
10161 PARK RUN DRIVE, SUITE 150  
LAS VEGAS, NEVADA 89145  
(702) 566-1935

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of the Summons within which to file an Answer or other responsive pleading to the Complaint.

Submitted by:

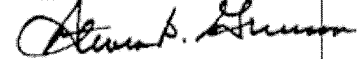
By: David J. Merrill  
David J. Merrill  
David J. Merrill, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
(702) 566-1935  
Attorney for Plaintiff

STEVEN D. GRIERSON  
CLERK OF COURT

By: [Signature] Date \_\_\_\_\_  
Deputy Clerk  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

NOTE: When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure 4(b).

Electronically Filed  
11/21/2017 12:02 PM  
Steven D. Grierson  
CLERK OF THE COURT



**COMP**

David J. Merrill  
Nevada Bar No. 6060  
David J. Merrill, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 566-1935  
Facsimile: (702) 993-8841  
E-mail: david@djmerrillpc.com  
Attorney for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LAS VEGAS REGIONAL SURGERY  
CENTER, L.P., a Nevada Limited  
Partnership,

Plaintiff,

vs.

BLUE CROSS OF COLORADO, a  
business organization, form unknown,  
and DOES 1-10,

Defendants.

Case No.: A-17-765037-C  
Dept. No. Department 32

**COMPLAINT**

Plaintiff Las Vegas Regional Surgery Center, L.P., a Nevada Limited  
Partnership alleges as follows:

1. Plaintiff is a Nevada limited partnership, with its principal place of  
business in Clark County, Nevada.
2. Plaintiff is informed and believes that Defendant Blue Cross of  
Colorado is a business organization, form unknown, with its principal place of  
business in Colorado.
3. Plaintiff is ignorant of the true names and capacities, whether  
individual, corporate, associate, or otherwise, of Defendants Does 1 through 10,  
inclusive and therefore sue said defendants by such fictitious names. Plaintiff will

DAVID J. MERRILL, P.C.  
10161 PARK RUN DRIVE, SUITE 150  
LAS VEGAS, NEVADA 89145  
(702) 566-1935

DAVID J. MERRILL, P.C.  
10161 PARK RUN DRIVE, SUITE 150  
LAS VEGAS, NEVADA 89145  
(702) 566-1935

1 amend this complaint to allege their true names and capacities when ascertained.  
2 Plaintiff is informed and believes that each defendant designated as a Doe is  
3 negligently or otherwise legally responsible for the events and happenings referred  
4 to in this complaint, and negligently or otherwise unlawfully caused the injuries  
5 and damages to Plaintiff as alleged in this complaint.

6 4. Plaintiff is informed and believes that each of the defendants was at all  
7 material times the agent, employee, joint venturer and partner of, and a co-  
8 conspirator with, the remaining defendants and acted within the course and scope  
9 of such agency, employment, joint venture, partnership and conspiracy in  
10 performing the actions alleged below.

11 5. During 2014 and 2015, Plaintiff provided medical and surgical services  
12 to patients located in Nevada who had medical insurance coverage with defendants.  
13 Before each medical and surgical service, Plaintiff confirmed insurance coverage  
14 with defendants and obtained their agreement to pay Plaintiff its usual and  
15 customary charges for performance the medical and surgical services, which  
16 historically have been more than 30% of the billed amount. Notably, in no case was  
17 Plaintiff advised by defendants and each of them that they intended to impose any  
18 limitations on Plaintiff's usual and customary charges, including but not limited to  
19 any maximum allowable daily amount limitations. Had Plaintiff been advised of  
20 any such limitations, Plaintiff would not have provided any medical or surgical  
21 services subject to such limitations.

22 6. Plaintiff submitted bills to defendants for all medical and surgical  
23 services during 2014 and 2015 and expected to be paid more than 30% of the  
24 amount of the bills. For 2014, Plaintiff's billings amounted to \$6,839,898.76 and for  
25 2015, Plaintiff's billings amounted to \$8,153,201.40. But defendants failed and  
26 refused to pay more than 30% of the amount of Plaintiff's bills, and have instead  
27 submitted payment in arbitrary amounts. In some cases, defendants have imposed  
28 a maximum allowable daily amount of \$1,400, all contrary to their previous

DAVID J. MERRILL, P.C.  
 10161 PARK RUN DRIVE, SUITE 150  
 LAS VEGAS, NEVADA 89145  
 (702) 566-1935

1 agreements, representations, and course of conduct. For 2014, defendants paid only  
 2 \$830,683.84, which is 12.14% of total 2014 billings. For 2015, defendant paid only  
 3 \$539,392.23, which is 6.62% of total billings.

#### 4 FIRST CAUSE OF ACTION

5 (Breach of Contract)

6 7. Plaintiff incorporates by reference each of the allegations set forth  
 7 above as if fully set forth herein.

8 8. Defendants have breached their agreements with Plaintiff by their  
 9 failure and refusal to pay Plaintiff its usual and customary rates for medical and  
 10 surgical services during 2014 and 2015.

11 9. As a proximate result of defendants' breach of their agreements,  
 12 Plaintiff has suffered damages in excess of \$10,000.

#### 13 SECOND CAUSE OF ACTION

14 (Breach of Implied in Fact Agreement)

15 10. Plaintiff incorporates by reference each of the allegations set forth  
 16 above as if fully set forth herein.

17 11. Because of the above-described oral representations, failures to  
 18 disclose, and course of conduct of defendants, Plaintiff had an implied in fact  
 19 agreement with defendants that Plaintiff would provide medical and surgical  
 20 services to patients insured by defendants during 2014 and 2015, and defendants  
 21 would pay Plaintiff its usual and customary rates for those medical and surgical  
 22 services, which historically had been more than 30% of the billed amount.

23 12. Plaintiff at all times fulfilled its duties and conditions under the  
 24 contract and has been ready, willing, and able to continue performing them in a  
 25 competent and satisfactory manner.

26 13. Defendants have breached the contract by their failure and refusal to  
 27 pay Plaintiff its usual and customary rates for those medical and surgical services  
 28 during 2014 and 2015.

DAVID J. MERRILL, P.C.  
 10161 PARK RUN DRIVE, SUITE 150  
 LAS VEGAS, NEVADA 89145  
 (702) 566-1935

14. As a proximate result of defendants' breach of their agreements, Plaintiff has sustained damages in excess of \$10,000.

### THIRD CAUSE OF ACTION

(Breach of the Implied Covenant of Good Faith and Fair Dealing)

15. Plaintiff incorporates by reference each of the allegations set forth above as if fully set forth herein.

16. The agreements between the parties contain an implied covenant of good faith and fair dealing that obligates defendants to perform the terms and conditions of the agreements fairly and in good faith and to refrain from doing any act that would deprive Plaintiff of its expected benefits.

17. The conduct of the defendants above breached the implied covenant of good faith and fair dealing in the agreement as defendants failed to act fairly and in good faith and engaged in activity that deprived Plaintiff of its benefits under the agreements. Specifically, defendants breached the implied covenant of good faith and fair dealing by their failure and refusal to pay Plaintiff its usual and customary rates for medical and surgical services during 2014 and 2015, which historically had been more than 30% of the billed amount.

18. As a proximate result of defendants' breach of the implied covenant of good faith and fair dealing, Plaintiff has sustained damages in excess of \$10,000.

### FOURTH CAUSE OF ACTION

(Account Stated)

19. Plaintiff incorporates by reference each of the allegations set forth above as if fully set forth herein.

20. Plaintiff is informed and believes that during 2014 and 2015, there was an account stated between Plaintiff and defendants, in which defendants agreed to pay Plaintiff its usual and customary rates for medical and surgical services, which historically had been more than 30% of the billed amount. Defendants have not paid Plaintiff its usual and customary rates for medical and



DAVID J. MERRILL, P.C.  
 10161 PARK RUN DRIVE, SUITE 150  
 LAS VEGAS, NEVADA 89145  
 (702) 566-1935

1 surgical services during 2014 and 2015, and owes Plaintiff an amount in excess of  
 2 \$10,000.

### 3 **FIFTH CAUSE OF ACTION**

4 (Unjust Enrichment/Quantum Meruit)

5 21. Plaintiff incorporates by reference each of the allegations set forth  
 6 above as if fully set forth herein.

7 22. Plaintiff provided medical and surgical services to patients for which  
 8 Plaintiff expected to receive from Defendants its usual and customary rates for the  
 9 medical and surgical services. But Defendants have retained the benefit of the  
 10 medical and surgical services provided by Plaintiff without payment of Plaintiff's  
 11 usual and customary rates for the medical and surgical services. Plaintiff has  
 12 suffered harm and Defendants have received a benefit in excess of \$10,000.

### 13 **SIXTH CAUSE OF ACTION**

14 (Open Book Account)

15 23. Plaintiff incorporates by reference each of the allegations set forth  
 16 above as if fully set forth herein.

17 24. Plaintiff is informed and believes that defendants became indebted to  
 18 Plaintiff on an open book account in an amount in excess of \$10,000 for medical and  
 19 surgical services. Despite demand by Plaintiff, defendants have failed to pay the  
 20 amounts due and owing to Plaintiff.

### 21 **SEVENTH CAUSE OF ACTION**

22 (Fraud)

23 25. Plaintiff incorporates by reference each of the allegations set forth  
 24 above as if fully set forth herein.

25 26. Defendants failed to disclose to Plaintiff certain material facts,  
 26 including that defendants did not intend to pay Plaintiff its usual and customary  
 27 charges for performance of medical and surgical services and that they intended to  
 28



DAVID J. MERRILL, P.C.  
 10161 PARK RUN DRIVE, SUITE 150  
 LAS VEGAS, NEVADA 89145  
 (702) 566-1935

1 impose limitations on Plaintiff's usual and customary charges, including but not  
 2 limited to a maximum allowable daily amount limitation.

3 27. Defendants did not disclose these material facts with the intent to  
 4 deceive Plaintiff and with the intent to induce Plaintiff's action in reliance thereon.

5 28. When these failures to disclose and suppressions of fact occurred, and  
 6 at the time Plaintiff provided the medical and surgical services to defendants and  
 7 their insureds, Plaintiff was ignorant of the existence of these material facts, which  
 8 defendants suppressed and failed to disclose. If Plaintiff had been aware of the  
 9 existence of these material facts not disclosed by defendants, Plaintiff would not  
 10 have provided any medical and surgical services subject to such limitations.

11 29. Plaintiff has suffered damages in excess of \$10,000 as a result of  
 12 defendants' failure to disclose.

13 Wherefore, Plaintiff prays for judgment as follows:

14 A. For general and special damages according to proof, but in excess of  
 15 \$10,000;

16 B. For interest, costs, and attorneys' fees; and

17 C. For such other and further relief as the Court may deem just and  
 18 proper.

19 DATED this 21st day of November 2017.

20 David J. Merrill, P.C.

21  
 22 By:   
 23 David J. Merrill  
 24 10161 Park Run Drive, Suite 150  
 25 Las Vegas, Nevada 89145  
 26 (702) 566-1935  
 27 Attorney for Plaintiff  
 28